Automated Collection System (ACS)

Designed by IRS to “streamline” its unpaid account collection, however:

- Tax practitioners struggle with many of its organization concepts
- Inability to contact previous agent
- Documents in case files are difficult to locate as calls are routed from one center to the other
- Many agents are familiar with only the most basic issues regarding taxpayer options
Automated Collection System (ACS)

Points to remember:

- During the process it is very likely that an IRS representative will have access to the taxpayers credit report.
  
  - Chief Counsel Advice 200726001 affirms that the IRS is under no responsibility to inform the taxpayer that IRS does in fact have a copy of the credit report.
Automated Collection System (ACS)

- Large case file management ($100,000 and more)
  - While large case managers have more experience, training gaps continue to exist and chasing the information across the country is a problem like small cases.
  - ACS is generally a difficult place to settle a case unless it is a SINGLE CONTACT case, this is especially true of large cases, find a way into a different venue.
Automated Collection System (ACS)

1. Contact – Go on the offensive

2. POA – Have it and be ready to produce it – Have Publication 4019 nearby

Third Party Authorization,

Levels of Authority

Image courtesy of www.irs.gov

Chapter 12: Enforcement Actions
Automated Collection System (ACS)

3. Giving information to ACS – There never seems to be enough

4. Entering into an IA – Be prepared to request an appeals conference

5. Try Again – Hang up and talk to someone else
Automated Collection System (ACS)

6. The supervisor approach – Very difficult as they almost never have the time to return the phone call
The real problem with ACS, they will for the most part will only:

- Accept full payment
- Set up a "simple" IA
- Fail to offer full resolution
- Take a collection information statement

Chapter 12: Enforcement Actions

Automated Collection System (ACS)
Automated Collection System (ACS)

• Best Practices
  • Record the Employee ID# and name
  • Date and time of the call
  • All actions requested of the taxpayer by the assistor
  • Actions indicated that the IRS will take
  • Collection information statement information provided to assistor

  Follow-up with a written letter confirming ALL of the above information

Chapter 12: Enforcement Actions
Payment Offsets

• Looking for the missing refund

– First check with IRS resources on where they say the refund is at
Refund Status

Get Refund Status

Please enter your Social Security Number, your Filing Status and the refund amount as shown on your tax return.
*See our Privacy Notice regarding our request for your personal information.

Social Security Number ▶
or IRS Individual Taxpayer Identification Number shown on your tax return.

Filing Status ▶
Please select the Filing Status shown on your tax return.

Refund Amount ▶
You must enter the exact whole dollar amount shown on your tax return. Providing the exact whole dollar amount is essential to receiving the correct response.

Note: For security reasons, we recommend that you close your browser after you have finished accessing your refund status.
You are looking for a refund
The IRS thinks that the taxpayer owes IRS or some agency money.
Overpaid Tax Applied to Other Taxes You Owe

We applied $22,893.00 of the overpaid tax on your 2007 tax return to the unpaid balance of other federal taxes which our records show you owe.

You may still be due a refund if we applied only part of your overpayment to other taxes. You also may be due a refund if you recently made a payment against the other taxes that we had not credited when we applied your overpayment. In either case, you will receive a check for any refund due you as long as the amount is greater than one dollar. You must request a refund of less than one dollar. If you have any questions, please call us at the number listed above.

The figures below show our calculation:

How We Applied Your Overpayment

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Amount of Overpaid Tax on Your Return</td>
<td>$22,893.00</td>
</tr>
<tr>
<td>Amount of Interest You Earned on Overpayment</td>
<td>$.00</td>
</tr>
<tr>
<td>Total Amount Due You</td>
<td>$22,893.00</td>
</tr>
<tr>
<td>Total Amount Applied</td>
<td>$22,893.00</td>
</tr>
</tbody>
</table>

Amount You Will Receive as a Refund

(any interest due you will be added)

$.00

Where We Applied Your Overpayment

<table>
<thead>
<tr>
<th>Form(s)</th>
<th>Tax Period(s)</th>
<th>Amount(s) Applied</th>
</tr>
</thead>
<tbody>
<tr>
<td>CVL</td>
<td>December 31, 2006</td>
<td>$22,893.00</td>
</tr>
<tr>
<td>PEN</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Department of the Treasury
Internal Revenue Service
Cincinnati, OH 45999-0025
Payment Offsets

Non-tax offsets – Treasury Offset Program as directed by the Financial Management Service (FMS) including:

- Child Support
- Federal Agency non-tax debts
  - Student Loans
  - Unemployment Repayments
- State Income Tax
Payment Offsets

What to do when refund is offset by someone other than IRS?

✓ Contact agency that funds were sent to
✓ If joint refund and debt is that of only one of the taxpayers file Form 8379 – this can be filed with original return as well and if post filing should be directed to address on notice of offset
Payment Offsets

What do I do if the taxpayer thinks they may be subject to an agency offset but is not sure?

1. **Contact FMS at 800-304-3107**
3. **Specific information regarding payments subject to offset (Bottom Page 216)**
4. **Contact information for agencies that are eligible to request offset**

Fax completed form to: (205) 912-6155

**AUTHORIZED FOR RELEASE OF INFORMATION**

1. **TO:** U.S. Department of the Treasury, Financial Management Service (FMS)
   **FROM:**

<table>
<thead>
<tr>
<th>Name (include alias and maiden name):</th>
<th>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Social Security Number or Employer Identification Number:</td>
<td>Telephone No.:</td>
</tr>
</tbody>
</table>

2. I authorize the FMS, its employees, agents, and contractors, to disclose to the following person:

   **REPRESENTATIVE:**

<table>
<thead>
<tr>
<th>Name of Individual:</th>
<th>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Individual:</td>
<td>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</td>
</tr>
<tr>
<td>Name of Individual:</td>
<td>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</td>
</tr>
<tr>
<td>Company Name (optional):</td>
<td>Telephone No.:</td>
</tr>
<tr>
<td>Company Name (optional):</td>
<td>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</td>
</tr>
<tr>
<td>Company Name (optional):</td>
<td>Telephone No.:</td>
</tr>
<tr>
<td>Company Name (optional):</td>
<td>Mailing Address (include street address, p.o. box, suite no., city, state, zip code):</td>
</tr>
</tbody>
</table>
Payment Offsets

There are some exemptions from offset (this does not apply to federal tax obligations)

- Taxpayer in bankruptcy
- Innocent spouse relief has been granted
- Arrangements have been made to pay the debt
- Hardship
The levy power as held by the IRS allows them to confiscate property and sell that property to satisfy the tax debt.
Levies

What can the IRS levy? Everything

- Wages
- Bank Accounts
- Social Security
- Retirement Income
- Tax Refunds
- Real Estate including the taxpayer’s personal residence
- Accounts Receivable
- ANY money owed to taxpayer
Levies

To issue levy IRS MUST:

• Assess tax and send a Notice of Demand for Payment

• Prove the taxpayer neglected or refused to pay tax

• Send Final Notice of Intent to Levy AND Notice of Your Right to a Hearing (CDP) if not previously exercised

Chapter 12: Enforcement Actions
Final Notice
Notice Of Intent To Levy And Notice Of Your Right To A Hearing
Please Respond Immediately

We previously asked you to pay the federal tax shown on the next page, but we haven't received your payment. This letter is your notice of our intent to levy under Internal Revenue Code (IRC) Section 6331 and your right to appeal under IRC Section 6330.

We may also file a Notice of Federal Tax Lien at any time to protect the government's interest. A lien is a public notice to your creditors that the government has a right to your current assets, including any assets you acquire after we file the lien.

If you don't pay the amount you owe, make alternative arrangements to pay, or request an appeals hearing within 30 days from the date of this letter, we may take your property, or rights to property. Property includes real estate, automobiles, business assets, bank accounts, wages, commissions, social security benefits, and other income. We've enclosed Publication 594, which has more information about our collection process; Publication 1660, which explains your appeal rights; and Form 12153, which you can use to request a Collection Due Process hearing with our Appeals Office.

To prevent collection action, please send your full payment today.

- Make your check or money order payable to United States Treasury.
- Write your Social Security Number on your payment.
- Send your payment and the attached payment stub to us in the enclosed envelope. The amount you owe is shown on the next page.
Employer Requirement to Execute Wage Levy

If the employer receives a wage levy on an employee they MUST comply with the levy unless released by IRS from the obligation, there are no exceptions:

The levy is incorrect – TOO BAD

The employee has made other arrangements – TOO BAD

The employer disagrees with the IRS action – TOO BAD
Employer Requirement
to Execute Wage Levy

What do the courts say?

In a recent court case, *Mission Primary Care Clinic, PLLC v. Director, IRS* (CA 5 03/25/10), 105 AFTR 2d, the continuing payment levy powers of the IRS was demonstrated to be broad. In this case, Mission failed to withhold funds pursuant to a continuing payment levy against one of its members. The IRS pursued the matter and the court found that Mission owed the IRS $330,000 (the amount the levy should have collected) plus $165,000 (50% of the amount that Mission failed to collect).

A similar case upheld the fines for a law firm that failed to comply with a continuing payment levy on one of the law firm’s partners. The court, in *U.S. v. Molkowitz, Passman & Edelman* (CA 2 04/29/2010) 105 AFTR 2d, sustains the IRS action of seeking payment from the law firm partnership of the amount that should have been held pursuant to the levy issue.
Employer Requirement to Execute Wage Levy

Rule of law regarding failure to execute levy

- Personally liable for amount of property levy would have yielded.

- When person fails to surrender said property a penalty equal to 50% may be assessed.
Releasing Levies and Levied Property

The IRS must release the levy if:

• The taxpayer pays all amounts due
• The taxpayer (Vinateri Case) has established they are an impoverished taxpayer
• The Collection Statute Expiration Date (CSED) has passed
• The taxpayer proves that release of the levy will assist the IRS in collecting the tax
Releasing Levies and Levied Property

The IRS must release the levy if:

• Have an installment agreement, unless the agreement says to the contrary

• The levy is creating an economic hardship

• The FMV of the property exceeds the amount due and collection is not hindered by the release
Includes Stopped Payment Fees
# Levy on Wages, Salary and Other Income

## Chapter 12: Enforcement Actions

### Form 668-W(ICS)

<table>
<thead>
<tr>
<th>Pay Period</th>
<th>Number of Exemptions Claimed on Statement</th>
<th>More than 6</th>
</tr>
</thead>
<tbody>
<tr>
<td>Daily</td>
<td>34.42, 47.88, 61.35, 74.81, 88.27, 101.73</td>
<td>20.96 plus 13.46 for each exemption</td>
</tr>
<tr>
<td>Weekly</td>
<td>172.12, 239.42, 306.73, 374.04, 441.35, 508.65</td>
<td>104.81 plus 87.31 for each exemption</td>
</tr>
<tr>
<td>Biweekly</td>
<td>344.23, 478.85, 613.46, 748.08, 892.69, 1017.31</td>
<td>200.62 plus 134.62 for each exemption</td>
</tr>
<tr>
<td>Semimonthly</td>
<td>372.92, 518.75, 664.56, 810.42, 956.25, 1102.08</td>
<td>227.08 plus 145.83 for each exemption</td>
</tr>
<tr>
<td>Monthly</td>
<td>745.83, 1037.60, 1329.17, 1630.83, 1912.50, 2204.17</td>
<td>454.17 plus 291.87 for each exemption</td>
</tr>
</tbody>
</table>

### Identifying Number(s):

**ROBE**

<table>
<thead>
<tr>
<th>Kind of Tax</th>
<th>Tax Period Ended</th>
<th>Unpaid Balance of Assessment</th>
<th>Statutory Additions</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>1040</td>
<td>12/31/1994</td>
<td>1216.20</td>
<td>736.55</td>
<td>1952.75</td>
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<td>1040</td>
<td>12/31/1995</td>
<td>8283.80</td>
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<td>13433.24</td>
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<td>12/31/1996</td>
<td>23111.42</td>
<td>9526.75</td>
<td>32638.17</td>
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<tr>
<td>1040</td>
<td>12/31/1997</td>
<td>14263.55</td>
<td>5879.58</td>
<td>20143.13</td>
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<td>1040</td>
<td>12/31/1998</td>
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<td>4559.28</td>
<td>15143.85</td>
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<td>12/31/1999</td>
<td>34440.03</td>
<td>18890.11</td>
<td>53330.14</td>
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<tr>
<td>1040</td>
<td>12/31/2000</td>
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<tr>
<td>1040</td>
<td>12/31/2001</td>
<td>786.63</td>
<td>4988.09</td>
<td>5774.72</td>
</tr>
</tbody>
</table>
Some plain truths about levies

- IRS does not want your taxpayer’s non-cash property, they simply want their attention.

- IRM 5.17.3.5 which governs the IRS employees conduct during a levy is extensive and one miss-step dooms the levy.

- But the taxpayer has a limited window to bring the error to IRS attention VanSkiver v. United States.
Levy on Wages, Salary and Other Income

IRS levy tool while powerful seldom realizes $ in any meaningful way in comparison to taxpayer cooperation.
Liens

Federal Tax Lien (FTL) – a public notice of the US Government’s interest in ALL the property of the taxpayer – a creditor like any other subject to the rules of first come first serve
Liens

A FTL may:

☑ Appear on a credit report
☑ Be noted by a prospective employer
☑ Affect the licensing of an individual
☑ Impair the taxpayer’s ability to conduct their financial affairs
Liens

IRS has released Regulation 301.6323 updating many actions that occur as a result of the issuance of a Federal Tax Lien (FTL)

The threshold (amount of debt owed by taxpayer to IRS) has been raised from $5,000 to $10,000
Liens

IRS has released Regulation 301.6323 updating many actions that occur as a result of the issuance of a Federal Tax Lien (FTL)

The FTL has become a noose around the neck of even of those taxpayers who have paid their debt:

The mere recording of a FTL will lower the FICO score by at least 100 points for 7 years even after the lien is no longer valid. This included taxpayers who paid their tax debts in full.
Liens

IRS has released Regulation 301.6323 updating many actions that occur as a result of the issuance of a Federal Tax Lien (FTL)

Relief – The FTL may be completely removed (i.e. withdrawn) in two circumstances, when:

The Debt is paid in full

A debt that is less than $25,000 and the taxpayer has entered into a direct debit installment agreement
Liens

To file a federal tax lien the IRS must:

- Assess the liability
- Send a Notice and Demand for Payment
- The taxpayer has refused or neglected to pay the debt in FULL

A payment agreement will generally not diffuse the IRS’s desire to file an FTL
Liens

Subordination of a federal tax lien – the process by which the federal government allows a creditor to move ahead of them in their security interest

Apply for per the procedures of Publication 784
Liens

The IRS will subordinate the government’s lien when:

1. The subordination does not materially change the government’s position – i.e. refinance

2. A creditor loans additional funds with the purpose of providing monies to the tax debt

3. The amount paid represents the government’s interest in the property
Liens

Application for Certificate of Discharge – Refer to Publication 783 for procedures

- In the event the taxpayer sells the property, the application should be made and any amount of government interest must be paid

- If a personal residence a relocation allowance can be requested
Liens

Automatic Release of Lien

- 30 days after satisfaction of amounts due
- 30 days post IRS acceptance of payment bond

Inquires should be made to the Centralized Lien Unit at 1-800-913-6050
Liens

Difficult Lien Issues

Collection Technical Services Advisory Function – Refer to Publication 4235

Certificate of Discharge

Subordinations

Subrogation

Non-attachment

Withdrawal

Complex Issues

Collection Advisory Group

Addresses

For use when submitting the following certificates related to a Notice of Federal Tax Lien —

- Instructions for Preparing a Notice of Non-Judicial Sale and Application for Consent to Sale (Publication 798, Catalog No. 467678)
- How to Prepare an Application for a Certificate of Nonattachment of Federal Tax Lien (Publication 1024, Catalog No. 465755)
- Application for Withdrawal of Filing Form 689(Y), Notice of Federal Tax Liens (Form 12277, Catalog No. 270990)
- Special Information relating to Purchase Money Mortgages, Purchase Money Security Interests, and Subordination of the Federal Tax Lien (Publication 785, Catalog No. 466749)

Chapter 12: Enforcement Actions
Liens

Chapter 12: Enforcement Actions

Form 12277
(October 2011)

Application for Withdrawal of Filed
Form 668(Y), Notice of Federal Tax Lien
(Internal Revenue Code Section 6323(j))

1. Taxpayer Name (as shown on the Notice of Federal Tax Lien)  
2. Social Security/Employer Identification No.

3. Taxpayer’s Representative, if applicable, or Name and Title of contact person, if taxpayer is a business

4. Address (Number, Street, P.O. Box)

5. City  
6. State  
7. ZIP code  
8. Phone Number

9. Attach copy of the Form 668(Y), Notice of Federal Tax Lien, if available, OR, if you don’t have a copy, provide the following information, if available:
   Serial number of Form 668(Y) (found near the top of the document)  
   Date Form 668(Y) filed

   Recording office where Form 668(Y) was filed

10. Current status of the federal tax lien ("x" appropriate box)
    □ Open  
    □ Released  
    □ Unknown

THOMSON REUTERS
General Instructions

1. Complete the application. If the information you supply is not complete, it may be necessary for the IRS to obtain additional information before making a determination on the application.
   - Sections 1 and 2: Enter the taxpayer's name and Social Security Number (SSN) or Employer Identification Number (EIN) as shown on the Notice of Federal Tax Lien (NFTL).
   - Section 3: Enter the name of the person completing the application if it differs from the taxpayer's name in section 1 (for example, taxpayer representative). For business taxpayers, enter the name and title of person making the application. Otherwise, leave blank.
   - Sections 4 through 8: Enter current contact information of taxpayer or representative.
   - Section 9: Attach a copy of the NFTL to be withdrawn, if available. If you don't have a copy of the NFTL but have other information about the NFTL, enter that information to assist the IRS in processing your request.
   - Section 10: Check the box that indicates the current status of the lien. "Open" means there is still a balance owed with respect to the tax liabilities listed on the NFTL. "Released" means the lien has been satisfied or is no longer enforceable. "Unknown" means you do not know the current status of the lien.

a. If a determination is made to withdraw the NFTL, we will file a Form 10916(c), Withdrawal of Filed Notice of Federal Tax Lien, in the recording office where the original NFTL was filed and provide you a copy of the document for your records.

b. If the determination is made to not withdraw the NFTL, we will notify you and provide information regarding your rights to appeal the decision.

4. At your request, we will notify other interested parties of the withdrawal notice. Your request must be in writing and provide the names and addresses of the credit reporting agencies, financial institutions, and/or creditors that you want notified.

   NOTE: Your request serves as our authority to release the notice of withdrawal information to the agencies, financial institutions, or creditors you have identified.

5. If, at a later date, additional copies of the withdrawal notice are needed, you must provide a written request to the Advisory Group Manager. The request must provide:

   a. The taxpayer's name, current address, and taxpayer identification number with a brief statement authorizing the additional notifications.
   b. A copy of the notice of withdrawal, if available; and
   c. A supplemental list of the names and addresses of any credit reporting agencies, financial institutions, or creditors to notify of the withdrawal of the filed Form 668(Y).